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QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS

Human rights and the environment

Report of the Secretary-General prepared in accordance with Commission resolution 1996/13

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CONTENTS

		Page
Introduction		3
I.	COMMENTS RECEIVED FROM STATES	4
	A. Croatia	4
	B. Cyprus	4
	C. Sudan	5
	D. Philippines	5
	E. United Kingdom	6
II.	COMMENTS SUBMITTED BY UNITED NATIONS BODIES AND SPECIALIZED AGENCIES	6
	A. United Nations Conference on Trade and Development	6
	B. Economic Commission for Europe	7
	C. World Health Organization	7
III.	COMMENTS SUBMITTED BY A REGIONAL ORGANIZATION	8
	The League of Arab States	8
IV.	COMMENTS SUBMITTED BY A NON-GOVERNMENTAL ORGANIZATION	8
	Nigerian Environment Network	8

Introduction

1. At its fifty-second session, the Commission on Human Rights adopted resolution 1996/13 in which it requested the Secretary-General to renew his request for the opinions of Governments, specialized agencies and intergovernmental and non-governmental organizations on the issues raised in the final report of the Special Rapporteur on human rights and the environment of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/Sub.2/1994/9 and Corr.1).

2. In accordance with that request, the Secretary-General addressed a note verbale to Governments and a letter to specialized agencies and intergovernmental and non-governmental organizations on 26 June 1996 asking them for their comments and observations.

3. As of 30 September 1966, replies had been received from the Governments of the following countries: Croatia, Cyprus, Sudan, United Kingdom of Great Britain and Northern Ireland. Substantive replies had also been received from the following United Nations bodies and specialized agencies: United Nations Conference on Trade and Development, Economic Commission for Europe, World Health Organization. Information relating to various environmental problems was also submitted by a regional organization, the League of Arab States, and a non-governmental organization, the Nigerian Environment Network.

4. Most of the material contained in the replies was information of a general nature and is therefore not summarized in this report. States' replies focused on the relevant national legislation and measures adopted to address environmental problems. The Council of Europe and the Organization for Security and Cooperation in Europe provided a general framework for their activities in environmental protection and related activities. A special emphasis was placed by the Council of Europe on recommendation 1284 (1996) of the Parliamentary Assembly of the Council on European environment policy (1994-1995).

5. The Department of Humanitarian Affairs, the Department for Economic and Social Information and Policy Analysis, the United Nations Office at Vienna, the World Food Programme, the United Nations Educational, Scientific and Cultural Organization, the Food and Agriculture Organization of the United Nations, the International Monetary Fund, the Universal Postal Union, the United Nations Industrial Development Organization, the Organization for Economic Cooperation and Development, the Organization of American States, the International Association of Lions Clubs and the Association of Commonwealth Universities indicated that they were not in a position to express any views on the points raised in the report of the Special Rapporteur. It should be recalled, however, that a number of these organizations had already submitted their comments in 1995 and had no additional comments.

6. The present report thus contains a summary of the substantive replies received, with a view to facilitating the deliberations of the Commission on Human Rights. Any further replies will be included in an addendum to this document.

I. COMMENTS RECEIVED FROM STATES

A. Croatia

[25 September 1996]
[Original: English]

1. The information received from the Republic of Croatia concerns mainly annex III of the Special Rapporteur's report entitled "Developments in national legislation and practices". Reference was made to: (a) the Constitution of the Republic of Croatia (art. 3) which proclaims the protection of nature and environment as the fundamental values of the constitutional order; (b) the Declaration on the Protection of the Environment which proclaims Croatia's commitment to the achievement of sustainable development in accordance with the concept and the standards set by the international community; (c) the Law on the Protection of the Environment which regulates in more detail the implementation of the common platform for environmental protection as inspired by the provision of the Constitution and the aforementioned Declaration. Article 18 of the said Law calls for the adoption of the National Strategy for the Protection of the Environment which is still in the process of drafting by the State Division for the Protection of the Environment, the governmental body with the main competence in this field.

2. With regard to individuals in the process of environmental protection, in its article 69, the Constitution of Croatia provides for the right for every person to a healthy life and environment. It also stresses the obligation of all citizens and of public or private bodies to undertake measures of considerable care for the protection of the environment.

3. Finally, environmental protection is a subject of the rules of criminal law. Article 162 of the Criminal Act provides for the penalization of the criminal offence of pollution of the human environment, which raises the issue of responsibility of individuals acting both in their private and their official capacity. The offence is punishable by three to five years' imprisonment.

B. Cyprus

[4 September 1996]
[Original: English]

1. The Government of Cyprus expressed its views through the statement presented by the Director of Environment Service at the Ministry of Agriculture, Natural Resources and Environment in Cyprus, during the international seminar on the contribution of the Organization for Security and Cooperation in Europe to the security of smaller States held in Nicosia on 15 and 16 January 1996.

2. The Charter of the United Nations and several international instruments recognized development and the protection of the environment as interdependent

and indivisible and have given rise to the concept of sustainable development. The latter cannot be realized without the protection of the environment. Environment and fundamental human rights are also indivisible.

3. Cyprus is a case study of what can happen when people are separated from their land and resources. Environmental damage and changes in the demographic structure and to the political, cultural, religious and other characteristics of the occupied part of the country have had direct effects on the enjoyment of practically all human rights by the people evicted from their land and resources.

4. All definitions of sustainable development encompass intergenerational responsibility which implies international responsibility and cooperation for the protection of the environment, to which all countries have already committed themselves.

C. Sudan

[3 October 1996]
[Original: Arabic]

1. Under the fourth Constitutional Decree of 1994 and the subsequent twelfth Constitutional Decree of 1995, powers in regard to protection of the environment and natural resources are exercised jointly by the federal and the provincial government agencies. A provision, incorporated in the Constitution, recognizing the rights of citizens to a healthy environment has been included in the comprehensive National Strategy, which also reflects the concern for sustained development in order to combat poverty and safeguard resources in such a way as to guarantee the rights of all future generations.

2. Efforts are currently under way to update the sectoral legislation and to promulgate a Comprehensive Environmental Act. Sectoral legislation governing the use of resources in the Sudan includes the following: legislation to safeguard the right to the agricultural environment; legislation to protect livestock; legislation designed to provide a healthy and safe environment; legislation regulating land use; legislation which guarantees the right of citizens to organize themselves in the form of associations concerned with the environment. In addition, the Higher Council for the Environment and Natural Resources is endeavouring to monitor the implementation of the international environmental agreements to which the Sudan is a party.

D. Philippines

[15 November 1996]
[Original: English]

1. The Government of the Philippines requested the inclusion of the following provisions of the Philippines Constitution in annex III of the Special Rapporteur's report. The 1987 Constitution provides that the "State shall protect and advance the people's right to a balanced and healthful ecology". It "recognizes and promotes the rights of indigenous cultural communities" (art. II, sects. 16 and 20). Equitable distribution of

opportunities, income and wealth are the aims of the national economy with a view to ensuring the raising of the quality of life for all, in particular the underprivileged. Thus, the State shall endeavour to promote industrialization and full employment as well as full and efficient use of human and natural resources. It shall also protect the rights of the indigenous cultural communities to their ancestral lands, and their economic, social and cultural well-being (art. XII, sects. 1 and 5).

2. In its comments on resolution 1996/13, the Government of the Philippines expressed the view that there is a need to identify or provide mechanisms to monitor and assess the implementation of human rights and environmental concerns.

E. United Kingdom of Great Britain and Northern Ireland

[28 October 1996]
[Original: English]

While stressing its role as an activist for international action to protect the environment and to promote sustainable development, the Government of the United Kingdom indicated that it does not believe that the Commission on Human Rights is the right forum for debate in this area since it does not have the necessary expertise to promote meaningful measures to ensure environment protection. International action could take place through the United Nations Environment Programme, the Commission on Sustainable Development and through the Conference of States Parties to the various international environment conventions. This would distract the Commission on Human Rights from its core activity of protecting human rights.

II. COMMENTS SUBMITTED BY UNITED NATIONS BODIES AND SPECIALIZED AGENCIES

A. United Nations Conference on Trade and Development

[2 September 1996]
[Original: English]

1. The United Nations Conference on Trade and Development (UNCTAD) stressed the fact that the draft principles contained in annex I of the Special Rapporteur's report touch upon areas of UNCTAD's work relevant to the draft provisions. Referring to principle 1: "Human rights, an ecologically sound environment, sustainable development and peace are interdependent and indivisible" and principle 24: "All international organizations are requested to observe the rights and duties in the draft declaration", UNCTAD pointed out that under its activities on the management of commodity resources and sustainable development, the organization is concerned with, inter alia, the right of all persons to meaningful participation in planning and decision-making with regard to the exploitation of natural resources and the impact of this activity on the environment and development, including the right to information for that end.

2. In this connection, UNCTAD used the example of a participatory framework for the exploitation of natural resources currently being elaborated. Within this context, a pilot project for the application of the framework was initiated in the Namaqualand region of South Africa at the beginning of 1996. Once refined and available, the framework could be applicable in other regions.

3. With regard to the right to information, UNCTAD is also in the process of establishing an international clearing house for information on natural resources management, with a special focus on issues concerning the environment and development. The clearing house would be freely accessible to all persons through UNCTAD's presence on the World Wide Web (Internet). Itwould also allow direct access to a wide range of information that is currently dispersed or hidden, without undue financial burden to the user.

B. Economic Commission for Europe

[5 November 1996]
[Original: English]

1. The Economic Commission for Europe (ECE) transmitted an explanatory memorandum submitted by Belgium to the ECE Working Group for the preparation of a draft convention on access to environmental information and public participation in environmental decision-making. Belgium considers the elaboration of such a convention as a unique opportunity to give due recognition to the human right to a healthy environment in a legally binding international instrument.

2. The inclusion of provisions to this effect in the ECE convention would support ongoing efforts of the United Nations human rights bodies to elaborate universal norms with respect to the right to environment. It would not interfere or preclude any parallel developments in other forums.

3. The recognition of the right to a healthy environment in the convention would add weight to the operative provisions for the implementation of the procedural rights of access to information, participation in decision-making and access to justice by strengthening the legal and philosophical underpinning of these rights. It would indicate that these procedural rights are not ends in themselves, but are meaningful as means towards the end of protecting the individual's substantive right to live in a healthy environment.

C. World Health Organization

[21 November 1996]
[Original: English]

1. The World Health Organization (WHO) is cognizant of the relevance of human rights to the protection of the human environment in general and to sustainable environmental policies in particular. WHO has formulated a new WHO Global Strategy for Health and Environment which was endorsed by the Forty-sixth World Health Assembly in May 1993. The Strategy provides a unifying framework for WHO's activities and has the following three goals: to

achieve a sustainable basis for health for all; to provide an environment that promotes health; and to make all individuals and organizations aware of their responsibility for health and its environmental basis.

2. A new programme component on women, health and environment was established within the Office of Global and Integrated Environmental Health. It seeks to integrate women's health and health-related rights as formulated by the Fourth World Conference on Women held in Beijing in September 1995.

3. Certain charters developed under the auspices of WHO, i.e. the Pan-American Charter on Health and Environment in Sustainable Human Development and the European Charter on Environment and Health, include a focus on aspects that are directly or indirectly related to human rights. Reference was also made to a publication, Environment and Health 1: Overview and Main European Issues, published in 1996, which was prepared jointly by WHO and the European Union.

III. COMMENTS SUBMITTED BY A REGIONAL ORGANIZATION

The League of Arab States

[5 September 1996]
[Original: Arabic]

Referring to the paramount importance of the environment and related issues, the League of Arab States emphasized the urgent need to study this issue and encourage endeavours to reach an international consensus concerning its various aspects and priorities. Efforts should be deployed to remedy man-made changes in the environment which have reached an alarming stage in some cases. The proposed measures to protect the environment include, inter alia, efforts to combat desertification and expand green areas as well as efforts to combat industrial pollution.

IV. COMMENTS SUBMITTED BY A NON-GOVERNMENTAL ORGANIZATION

Nigerian Environment Network

[22 October 1996]
[Original: English]

1. Concerning the "General provisions", the Nigerian Environment Network (NEN) questioned the efficacy of the Treaty of Moscow of 5 August 1963 Banning Nuclear Weapons Tests in the Atmosphere, in Outer Space and under Water and the Antarctic Treaty of 1 December 1959, since France was allowed to conduct several nuclear tests in July 1995.

2. In regard to transboundry pollution in Africa, NEN suggests that the organization, the Global Environment Facility (GEF) should act directly on behalf of local peoples and their environment and through NGOs. On the other hand, in order for NGOs to act, a simplification of the criteria for accreditation would be needed.

3. With respect to international human rights instruments, reference was made to article 24 of the African Charter on Human and Peoples' Rights stating that "All people shall have the right to a general satisfactory environment favourable to their development." According to NEN, this statement did not take into consideration the reality of life on the African continent. Several examples were used in support of this assessment, proving that individual fundamental rights cannot be guaranteed: the rights of the child, the rights of women, civil and political rights, as well as the rights of migrant workers.

4. In its comments on chapter II, "Right to development, participatory democracy and the environment", NEN affirms that despite all the international proclamations and declarations, there is a divisibility and dependence of human rights, at least in Africa.

5. The relationship between the environment and international peace and security is vague; a relationship of the environment to the economic situations of countries may be more relevant.

6. On chapter IV, "Environmental degradation and its impact on vulnerable groups", climate changes, deforestation and woodstripping, biological diversity, pollution and discharge of toxic and dangerous products were used as examples to show their connection to ailing economies.

7. Within this context, the report suggests that all citizens of the African continent and surrounding islands should be referred to as vulnerable groups because of their economic status.

8. Finally, NEN does not consider the examples given in chapter V of the report, "Analysis of the effects of the environment on the enjoyment of fundamental rights", as being illustrative and exhaustive since they do not correspond to realities in Africa, Latin America or Asia.